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Via ECF

Magistrate Judge Jonathan W. Feldman
U.S. Courthouse
100 State Street
Rochester, NY 14614

RE: Horn v. Medical Marijuana, Inc., Dixie Elixirs and Edibles, Red Dice Holdings, LLC, and Dixie Botanicals
Index No.: 1:15-cv-00701-FPG-JWF
Our File No.: Dixie Elixirs -00001

Dear Judge Feldman:

We represent defendant Dixie Elixirs in the above-referenced matter. We write regarding Your Honor's October 12, 2021, text scheduling order concerning final pretrial submissions.¹ To the extent that the order directs the parties to submit "revised proposed jury instructions and revised witness/exhibit lists," defendant Dixie intends to rely on its prior submissions, having no substantive revisions to make.

For ease of reference, defendant Dixie Elixir incorporates by reference and annexes hereto the exhibit list included as Exhibit C in docket entry [137](#), the witness list at docket entry [176](#), and objections to plaintiff's proposed jury instructions and Request to Charge on Apportionment of Fault, filed as docket entry [187](#) (acknowledging as moot those objections pertaining to the RICO cause of action since dismissed by the court pursuant to the Decision and Order at docket entry [206](#)).

Plaintiff's revised proposed exhibit list did not include an addendum of the actual proposed exhibits. Plaintiff's prior proposed exhibit addenda included starkly different versions of the same exhibits, thus we ask that the court direct plaintiff to disclose a digital copy of the proposed exhibits in advance of this Thursday's Final Pretrial Conference.

Plaintiff also refers to "transcripts" to accompany the proposed YouTube videos (plaintiff's proposed exhibit 2 and exhibit 3), though no such transcripts were provided, and never referenced in any prior submissions. In addition to the foregoing request for disclosure, defendant Dixie reserves the right to object to the admissibility of these transcripts and any other exhibit not previously marked for potential submission (e.g., plaintiff's proposed exhibits 12, 13 and 14).

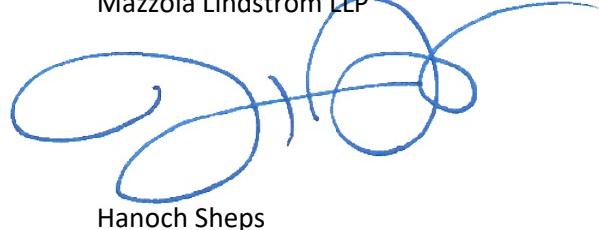
¹ Defendant Dixie joins defendants Medical Marijuana Inc. and Red Dice Holdings, LLC in their submissions regarding plaintiff's Motion for Certificate of Appealability and anticipates that the court will appreciate avoiding duplicative submissions. Defendants Medical Marijuana Inc. and Red Dice Holdings, LLC similarly join in the instant letter.

Plaintiff proposed as exhibit 16 the “EMSL report.” The Court deemed this report inadmissible in its Decision and Order at docket entry [174](#), pg. 11, and thus defendant Dixie asks that the Court strike this exhibit.

We thank the court for its consideration of this request and attention to this matter.

Respectfully submitted,

Mazzola Lindstrom LLP



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cc: All parties via ECF